

BOISE, TUESDAY, AUGUST 23, 2011, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37949

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
TIMOTHY LYNN COLTON,)
)
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Timothy Hansen, District Judge.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

Timothy Lynn Colton appeals from his judgment of conviction for delivery of a controlled substance, entered upon his conditional guilty plea. He argues that the district court erred in denying his motion to suppress.

Colton was charged with delivery of a controlled substance and possession of a controlled substance after the Boise City Police Department Narcotics Unit conducted a controlled buy of methamphetamine on June 16, 2009. On that date, police used a confidential informant (the CI) to initiate the buy. The police had interviewed the CI prior to the buy. At this interview the CI disclosed that the woman he would be purchasing methamphetamine from in the controlled buy, L.B., purchased her methamphetamine from Colton. The CI had seen Colton give drugs to L.B. on prior occasions. The CI had also been to the location at which the controlled buy was to take place--a "shop" operated by Colton by a car wash in Boise. On the day of the controlled buy, a detective watched the transaction from an adjacent parking lot and monitored an audio-transmission of the transaction which was being recorded by a device worn by the CI. The drug transaction was not completed at Colton's shop; instead the CI drove with L.B. to a different location, where the drugs and money were exchanged. The CI told the detective that the change of location was done at Colton's insistence. The detective arrested Colton later that day.

Colton moved to suppress all evidence against him that arose as a result of his arrest on the ground that the arrest was illegal. He argued that the detective did not have probable cause to

believe that Colton had been involved in the methamphetamine transaction that had occurred earlier that day. After the district court denied the suppression motion, Colton entered a conditional guilty plea to delivery of a controlled substance, preserving his right to appeal the court's suppression decision.

Colton now appeals, arguing that his suppression motion should have been granted because the facts known to the detective at the time of Colton's arrest did not amount to probable cause to believe that Colton was involved in the methamphetamine exchange.

BOISE, TUESDAY, AUGUST 23, 2011, AT 10:30 AM

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38083

STATE OF IDAHO,)
)
Plaintiff-Appellant,)
)
v.)
)
TROY EDWIN LIECHTY,)
)
Defendant-Respondent.)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

On the morning of March 15, 2010, a patrol officer observed a vehicle parked along the side of the road in a dirt lot. Without activating the patrol car's overhead lights or sirens, the officer pulled into the dirt lot near the parked vehicle and approached the vehicle on foot. As the officer arrived near the vehicle, he observed that the passenger's side window was partially covered by a shade screen. The officer could see Troy Edward Liechty sitting in the driver's seat. Liechty appeared to be holding something in his hand. The officer tapped on the passenger's window, and Liechty leaned across the driver's seat to remove the window shade. At that moment, the officer opened the passenger's door.

Upon opening the door, the officer noticed that the object in Liechty's hand was a small flashlight. Standing in the open doorway, the officer asked Liechty what he was doing parked in the dirt lot and if Liechty had any weapons in the car. Liechty responded that there was a kitchen knife under the backseat. The officer ordered Liechty out of the vehicle and placed him in handcuffs. The officer subsequently located the knife in the vehicle and arrested Liechty for possession of a concealed weapon.

A second officer arrived, searched Liechty's vehicle for more weapons, and discovered methamphetamine in the vehicle. Liechty was charged with possession of a controlled substance and concealing a dangerous weapon. Prior to trial, Liechty filed a motion to suppress. The district court granted the motion, holding that Liechty was seized when the officer opened the

passenger's door and that the seizure was unlawful because it was not supported by reasonable suspicion. The state appeals.